

REMARKS

Claims 1-23, 25, 29-30, 32-42, 44-48, 51-72, and 87-95 were pending in the application. With this paper, claims 1, 7, 11, 16, 29, 35, 38, 44, 55, 61, 62, 68, 88-90, and 95 have been amended, and claims 40, 45, 56, 63, and 69 have been cancelled, leaving claims 1-23, 25, 29-30, 32-39, 41-42, 44-48, 51-55, 57-62, 64-68, 70-72, and 87-95 pending.

Reconsideration and allowance are respectfully requested.

Identification Pending Claims

In the Office Action dated 2/26/2007, the Examiner indicates that Claims 1-23, 25, 29, 30, 32-42, 44-48, 51-72, and 87-89 were pending. Applicants respectfully submit that Claims 1-23, 25, 29, 30, 32-42, 44-48, 51-72, and 87-95 were pending. Applicants request examination of all pending claims 1-23, 25, 29-30, 32-39, 41-42, 44-48, 51-55, 57-62, 64-68, 70-72, and 87-95.

Restriction Requirement

In the Office Action dated 2/26/2007, the Examiner indicates that pending Claims 1-23, 25, 29, 30, 32-42, 44-48, 51-72, and 87-89 are subject to a restriction requirement and requests election of one separate independent invention from one independent claim 1, 11, 16, 29, or 35. Applicants provisionally elect claim 11, with traverse. Applicants note that claims 12-15, 54-55, and 57-60 depend from claim 11 and should be examined together with claim 11.

Applicants traverse the restriction requirement on the basis that the Examiner has failed to establish that examination of all of the pending claims would place a serious burden on the Examiner, in accordance with MPEP § 803. The Examiner has not indicated separate classification, separate status in the art, or a different field of search as defined in MPEP § 808.02.

Moreover, Applicants note that Claims 1-23, 25, 29, 30, 32-42, 44-48, 51-72, and 87-95 have been pending since at least Nov. 5, 2004. Since that date, there has been extensive activity in this case, including an Appeal and multiple Office Actions. In addition, with the Office Action dated 02/26/2007, the Examiner has already examined at least claims 1-23, 25,

29, 30, 32-42, 44-48, 51-72, and 87-89, and issued rejections for all of those claims. Applicants respectfully submit that given the number of years that the same Examiner has been handling the case, the number of actions that have been issued on the claims, and the pending rejections of the claims, the ongoing burden on the Examiner is not serious.

Rejections Under 35 U.S.C. § 103 in View of Kleiman

Claims 1-23, 25, 29, 30, 32-42, 44-48, 51-72, and 87-89 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kleiman (U.S. Patent No. 5,959,945). The Examiner states, in part:

Kleiman discloses, e.g. Figs. 1-9, an on demand entertainment system, e.g. (IT1), coupled to a local area network (LAN) further coupled to a wide area network (WAN), a master list of titles, a local list of titles, e.g. col. 3, lines 20-25, col. 9, lines 57-62.

Applicants respectfully traverse the Examiner's rejection. Given the combination of a Restriction Requirement and rejections pursuant to § 103, Applicants will focus the Remarks herein to the provisionally elected set of claims 11-15, 54-55, and 57-60. However, should the Restriction Requirement with respect to the remaining claims be withdrawn, Applicants will gladly submit additional Remarks specifically directed to the non-elected claims.

Claim 11 has been amended to recite, in part:

a user interface, comprising at least one graphical user interface (GUI) displaying entertainment content items available for performance;

a local memory that stores entertainment content and a master list of all entertainment content items available from a remote central resource;

a user input device; and

content management logic to control the entertainment unit such that in response to receiving a request via the user input device for performance of an entertainment content item not stored in the local memory, retrieving the requested item via a WAN and performing the requested item locally in response to the request.

(Emphasis added.)

Applicants respectfully submit that the Examiner has failed to indicate where Kleiman teaches or suggests the use of a master list of entertainment content items. Kleiman

includes some teaching with respect to the retrieval of songs from a central location (see, e.g., col. 9, lines 21-67). However, Kleiman fails to teach or suggest a network entertainment unit comprising a local memory that stores entertainment content and a master list of all entertainment content items available from a remote central resource, as recited in claim 11.

Accordingly, Kleiman fails to establish a *prima facie* case of obviousness of claim 11. Applicants request withdrawal of the rejection of claim 11 and claims 12-15, 54-55, and 57-60, which depend from claim 11.

Rejections Under 35 U.S.C. § 103 in View of Bulthuis et al.

Claims 1-23, 25, 29, 30, 32-42, 44-48, 51-72, and 87-89 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Bulthuis et al. (U.S. Patent No. 6,978,127). The Examiner states, in part:

Bulthuis discloses, e.g. Figs. 1-4, an on demand entertainment system, e.g. 100, coupled to a local area network 102 further coupled to a wide area network 206, a master list of titles and a local list of titles using infrared (IR) data transfer means. Regarding the dependent claims, e.g. using coin acceptor or bill acceptor, to use common knowledge and well known transfer means with Bulthuis would have been obvious to one of ordinary skill in the art.

Applicants respectfully traverse the Examiner's rejection. Applicants respectfully submit that the Examiner has failed to indicate where Bulthuis teaches or suggests the use of a master list of entertainment content items. Bulthuis includes some teachings regarding the use of the device as part of a component in a system capable of downloading content from the Web (see, e.g., col 7., line 55, to col. 8, line 17). However, Bulthuis fails to teach or suggest a network entertainment unit comprising a local memory that stores entertainment content and a master list of all entertainment content items available from a remote central resource, as recited in claim 11.

Moreover, Applicants submit that the Examiner's proposed modification of Bulthuis to include a coin acceptor or bill acceptor would have been impossible or impractical to implement and would defeat the purpose of Bulthuis. As indicated in the Summary and in the Title of the patent, Bulthuis describes a hand-held device. Moreover, the Abstract teaches: "It also allows for a form factor smaller than that of a conventional mobile phones


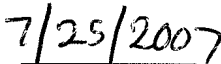
since a keypad is not needed for entering digits to make a call from a personalized directory." Given Bulthuis's desire to reduce the device's form factor, there is no support for the proposed modification to add a coin acceptor or a bill acceptor.

Accordingly, Bulthuis fails to establish a *prima facie* case of obviousness of claim 11. Applicants request withdrawal of the rejection of claim 11 and claims 12-15, 54-55, and 57-60, which depend from claim 11.

CONCLUSION

In light of the foregoing, Applicant respectfully requests that the rejections be withdrawn and the pending claims allowed. Should any other action be contemplated by the Examiner, it is respectfully requested that he contact the undersigned at (408) 392-9250 to discuss the application.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 50-2257 for any matter in connection with this response, including any fee for extension of time and/or fee for additional claims, which may be required.

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